



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. AM100249)

In re Application of:) Appln. No.: 10/039,383
HSIEN-JUE CHU *et al.*) Confirmation No.: 3951
Filed: December 17, 2001 via 37 C.F.R. § 1.10(d)) Customer No.: 25291
January 8, 2002 per date of receipt) Group Art Unit: 1645
For: IMPROVED MYCOPLASMA) Examiner: S. Devi
HYOPNEUMONIAE BACTERIN VACCINE)

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Dear Sir:

Transmitted herewith in the above-referenced patent application is a Renewed Petition To Correct Filing Date Under 37 C.F.R. § 1.10(d) with attachment (Exhibit H).

Petitioners acknowledge and greatly appreciate that no further petition fee is required with the Renewed Petition.

Thank you for the reconsideration of this matter.

Respectfully submitted,

WYETH

Date: November 1, 2004

By: Anne M Rosenblum

Anne M. Rosenblum
Attorney for Petitioners
Registration No. 30,419

FILING BY EXPRESS MAIL UNDER 37 C.F.R. § 1.10

This correspondence and the accompanying documents identified hereinabove are being deposited with the U.S. Postal Service on November 1, 2004 to be delivered by the "Express Mail Post Office to Addressee" service under Mailing Label Number ER 586233737 US addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Anne M. Rosenblum
Anne M. Rosenblum



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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION TO CORRECT FILING DATE UNDER 37 C.F.R. § 1.10(d)

Dear Sir:

Petitioners respectfully request reconsideration of the Decision Dismissing Petition mailed September 1, 2004 in connection with the above-referenced application. Pursuant to 37 C.F.R. § 1.10(d), it is asked that the application be granted a filing date of December 17, 2001 and the Assignment (recorded on Reel/Frame Nos. 012484/0243) be given a recordation date of December 17, 2001 in view of this Renewed Petition.

Relief is based upon the statutory provisions of 37 C.F.R. § 1.10(d) because a true copy of the Express Mail mailing label indicating the "date-in" or other official notation by the USPS relied upon to show the date of deposit could not be found in Petitioners' records, the USPS records at the place of origin on the date of deposit (December 17, 2001) or the USPS records at the destination point on the guaranteed date of delivery (December 18, 2001).

Petitioners previously met the requirements of 37 C.F.R. §§ 1.10(d)(1) and 1.10(d)(2). However, despite Petitioners' attempt in good faith to provide adequate proof in compliance with the statutory requirements of 37 C.F.R. § 1.10(d)(3), it has become clear that the "corroborating evidence" mandated by the statute cannot be proven by the circumstantial evidence of record. The best showing of "corroborating evidence" would appear to be a statement from the USPS that the correct date of deposit of the Express Mail envelope in question occurred on December 17, 2001.

As a consequence, Petitioners have now obtained a statement dated October 25, 2004 from the Morristown, New Jersey Postmaster (a true copy of which is attached hereto as "Exhibit H") in which the Postmaster, Mr. Dennis Allococo, confirms that he has reason to believe that the correct date of deposit into the mail stream of the Express Mail Envelope under Express Mailing Label Number EL 783017014 US was on December 17, 2001. The Postmaster's statement establishes that the Express Mail package containing the application and the accompanying papers, including the Assignment, had been timely deposited with the USPS on December 17, 2001 and supplies the corroborating proof in satisfaction of 37 C.F.R. § 1.10(d)(3). Hence, relief may be granted under the statute.

It is noted that Petitioners are grateful for this renewed opportunity to address the insufficiency of the corroborating evidence of record. The undersigned attorney would like to personally thank Mr. Douglas Wood in the Office of Petitions for taking the time to discuss this matter with her. Also, while the courtesy copy of the Decision Dismissing Petition was greatly appreciated, future correspondence may be mailed solely to the address of record.

Accordingly, Petitioners respectfully request that the proffered corroborating evidence be considered in a favorable light and pray that this Renewed Petition be granted.

Respectfully submitted,

WYETH

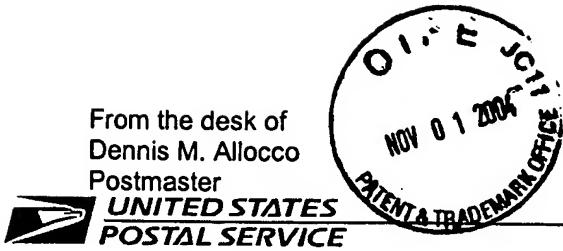
Date: November 1, 2004

By: Anne M. Rosenblum
Anne M. Rosenblum
Attorney for Petitioners
Registration No. 30,419

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Anne M. Rosenblum
Anne M. Rosenblum



October 25, 2004

Anne M. Rosenblum
Attorney at Law
163 Delaware Avenue-Suite 212
Delmar, New York 12054

Re: Wyeth Corporation Express Mail-Dec. 17, 2001

Dear Ms. Rosenblum,

The Wyeth Corporation has been a customer of the Morristown Post Office, and an Express Mail Corporate Account user for an extended period of time.

To that end, on December 17, 2001 the Wyeth Corporation presented for shipment pieces of Express Mail for shipment. One of the pieces was destined for delivery to the Patent Office. Unfortunately, at this time, the receiving installation in the Washington area was working under extreme duress due to the operational changes involving the Anthrax investigation.

I have been provided with evidence from Wyeth, to believe that the Express Mail envelope #EL783017014US was deposited into the mail stream on the date in question. Under normal circumstances, the delivery of this piece of Express Mail would reach the Commissioner of Patents and meet the requirements for timely submission.

Should you have any questions regarding this matter, please feel free to contact my office at 973-539-5890.

Submitted,

Dennis M. Allococo
Postmaster

Cc: file

Exhibit H

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(973)-539-5890
FAX (973)-539-1645